

## **REMARKS**

### **Introduction**

Claims 1-3, 5-8 and 10 are pending in this application. By this response, claims 4 and 9 have been cancelled without prejudice. Claims 1, 5-6 and 10 have been amended to correct informalities in the claim language and to more clearly define the claimed subject matter. Claims 1 and 6 have been amended to incorporate the elements of original claims 4 and 9, respectively. It is respectfully submitted that because no new matter or consideration are introduced by this amendment, this amendment should be entered.

Reconsideration of this application for allowance of all pending claims is hereby respectfully requested in view of the amendments to the claims and the following remarks.

### **Claims Rejected Under 35 U.S.C. § 102**

Claims 1, 4 and 5 have been rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 4,142,073 (Agneus et al.). This rejection is traversed for at least the following reasons.

Applicants respectfully submit that, at a minimum, Agneus fails to disclose “a second insulating film formed so as to cover upper, lower and side surfaces of the first insulating film” as recited by claim 1.

The Examiner asserts that the first plastic film 1 and the second plastic film 2 of Agneus correspond to the claimed second and first insulating films, respectively. However, the figure of Agneus clearly shows that the first plastic film 1 does not cover the lower surface of the second plastic film 2. Although the end portions of the first plastic film 1 bend downward, the first plastic film still fails to cover the lower surface of the second plastic film.

As such, it is clear that, at a minimum, Agneus fails to disclose the claimed second insulating film covering the lower surface of the first insulating film. Accordingly, claim 1 and claim 5 dependent thereon are patentable over Agneus. Thus, Applicants respectfully request that the Examiner withdraw the rejection of claims 1 and 5.

### **Claims Rejected Under 35 U.S.C. § 103**

Claim 1 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent No. 5,490,220 (Loeppert) in view of U.S. Patent No. 7,039,202 (Takeuchi). Claim 2 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over Loeppert in view of Takeuchi, and further in view of Majamaa (*Effect of Oxidation Temperature on the Electrical Characteristics of Ultrathin Silicon Dioxide layers plasma Oxidized in Ultrahigh Vacuum*). Claim 3 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over Loeppert in view of Takeuchi, and further in view of Ross (*Effects of Silicon Nitride Growth Temperature on Charge Storage in the MNOS Structure*). These rejections are traversed for at least the following reasons.

Applicants respectfully submit that, at a minimum, Loeppert fails to disclose the first insulating film being electretized and Takeuchi fails to disclose the second insulating film covering the first insulating film as recited by claim 1.

The Examiner asserts that the insulating film 24 of Loeppert corresponds to the claimed first insulating film and the film 24 is inherently electretized. However, Loeppert fails to suggest electretizing the first insulating film 24. Loeppert applies voltage from a charge pump located outside the device in order to increase sensitivity of the microphones to a desired range (see, col. 1, lines 49-51 of Loeppert). In other words, Loeppert does not suggest electretizing the first insulating film 24. Further, Loeppert fails to recognize the problem of “absorption of moisture and the like in the air by the [electretized] first insulating film and dissipation of the charge from

the first insulating film at heating,” which is addressed by the present application (see, paragraph [0005] of the present application). Accordingly, it is clear that, at a minimum, Loeppert fails to disclose or suggest the claimed first insulating film which is electretized.

The Examiner also asserts that the insulating films PF, IF2 of Takeuchi cover upper, lower and side surfaces of the alleged first insulating film IL2. However, in Takeuchi, it is clear that the electret film is the film EL, and not the wiring film IL2 (see, col. 7, line 59 – col. 8, line 7 of Takeuchi). The electret film EL is completely exposed to the air, and is not covered by the insulating film. It is also clear that the wiring film IL2 of Takeuchi is neither an insulating film nor an electretized film. In Takeuchi, elements other than the electret film EL have a conventional wiring structure, in which wirings are formed in an insulating film i.e., the wirings are covered with the insulating film. It is clear that Takeuchi fails to disclose “the first insulating film which is formed between the first electrode and the second electrode and is electretized” as recited by claim 1.

The technique of “cover[ing] upper, lower and side surfaces of the first insulating film” has significance only when the first *insulating* film is an electretized film. Otherwise, it is impossible to solve the problem of “absorption of moisture and the like in the air by the [electretized] first insulating film and dissipation of the charge from the first insulating film at heating” as in the present application (see, paragraph [0005] of the present specification).

As such, it is clear that, at a minimum, Loeppert and Takeuchi fail to disclose the above identified element of claim 1 regarding the first insulating film and the second insulating film. Further, it would not have been obvious to combine Loeppert with Takeuchi because neither of the references recognize or even suggest the problem of “absorption of moisture and the like in the air by the [electretized] first insulating film and dissipation of the charge from the first

insulating film at heating” addressed by the present application. Thus, claim 1 and claims 2-3 dependent thereon are patentable over the cited references. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections of claims 1-3.

Claim 6 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Publication No. 2002/0181725 (Johannsen et al.) in view of U.S. Patent No. 7,039,202 (Takeuchi). Claim 7 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over Johannsen et al. in view Takeuchi, and further in view of Majamaa. Claim 8 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over Johannsen et al. in view Takeuchi, and further in view of Ross. These rejections are traversed for at least the following reasons.

As set forth above, Takeuchi fails to disclose the claimed first insulating film which is formed between the first electrode and the second electrode and is electretized, as recited by claim 6. Neither Majamaa nor Ross cures the deficiencies of Johannsen and Takeuchi.

As such, claim 6 and all claims dependent thereon are patentable over the cited references.

Claims 6 and 9-10 were also rejected under 35 U.S.C. § 103 (a) as being unpatentable over Agneus et al. This rejection is traversed for at least the following reasons.

Claim 6 recites, among other features, that the lower surface of the electretized first insulating film is covered with a second electrode, and upper and side surfaces of the first insulating film are covered with a second insulating film. This structure can suppress “absorption of moisture and the like in the air by the [electretized] first insulating film and dissipation of the charge from the first insulating film at heating” (see, paragraphs [0024], [0029], and [0030] of the present application). The condenser of claim 6 also includes the function of

measuring change of capacitance between the first electrode and the vibrating film caused by vibration of the vibrating film.

The Examiner asserts that Agneus discloses a first electrode 3 (metallic base plate), a second electrode 4 (metallic layer), and a first insulating film 2 (second plastic film), which is formed between the first electrode 3 and the second insulating film 1 (first plastic film), and that the first insulating film 2 is electretized.

Applicants submit that it is clear that the metallic layer 4 does not cover the *lower surface* of the second plastic film 2. There is the first plastic film 1 between the alleged lower surface of the plastic film 2 and the metallic layer 4. Even if the metallic layer indirectly covered the lower surface of the second plastic film 2, Agneus would still fail to disclose the second insulating film which covers the *upper* and side surfaces of the first insulating film, since the first plastic film 1 and the metallic layer 4 are disposed at the same side of the second plastic layer 2.

Further, in the present subject matter, “the second electrode, the first insulating film, and the second insulating film compose a vibrating film” for measuring change of capacitance between the first electrode and the vibrating film caused by vibration of the vibrating films. It is clear that Agneus lacks this aspect of claim 6 since in Agneus all of the first electrode 3, second electrode 4, first insulating film 2 and the second insulating film 1 vibrate. Further, it is clear that Agneus fails to recognize or even suggest the above identified problem of absorption of moisture. As such, claim 6 and claim 10 dependent thereon are patentable over Agneus.

Based on the foregoing, Applicants respectfully request that the Examiner withdraw the rejections of claims 1-3, 5-8 and 10 under 35 U.S.C. § 103 (a).

**Conclusion**

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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